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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

PREM LATA JAIN, M.D.,
RESPONDENT.

FINAL DECISION AND ORDER
LS9909301MED

The State of Wisconsin, Medical Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Medical Examining Board.

The Division of Enforcement and Administrative Law Judge are hereby directed to file their affidavits of costs with the Department General Counsel within 15 days of this decision. The Department General Counsel shall mail a copy thereof to respondent or his or her representative.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 17th day of November, 1999.

Ronald Grossman, M.D.

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

PREM LATA JAIN, M.D.
RESPONDENT

PROPOSED DECISION AND ORDER
LS 9909301 MED

PARTIES

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The parties to this action for the purposes of s. 227.53 Stats., are:

Prem Lata Jain, M.D.
2909 Main Street
Dickinson, TX 77539

Steven M. Gloe
Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, Wisconsin 53708-8935

PROCEDURAL HISTORY

A hearing in the above-captioned matter was held on October 22, 1999, before Administrative Law Judge William A. Black. The Division of Enforcement appeared by Attorney Steven M. Gloe. The respondent, Prem Lata Jain, did not appear.

Based on the entire record of this case, the undersigned administrative law judge recommends that the Medical Examining Board adopt as its final decision in this matter, the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Prem Lata Jain, MD (DOB 07/05/35) is duly licensed to practice medicine and surgery in the state of Wisconsin (license #24182). This license was first granted on October 23, 1981.
2. Dr. Jain's most recent address on file with the Wisconsin Medical Examining Board is 2909 Main St., Dickinson, TX 77539.
3. On August 22, 1998, the Texas State Board of Medical Examiners issued an order which limited the license of Dr. Jain to practice medicine in Texas. The factual basis for the imposition of discipline against Respondent in Texas involved acts prior to 1993 consisting of: 1) preparing, repackaging and dispensing from her office medications that were labeled inappropriately; and 2) providing patients with medication in a frequent, excessive, and non-therapeutic manner.
4. On March 1, 1999, the New Hampshire Board of Medicine issued an order restricting the license of Dr. Jain to practice medicine in New Hampshire. This order was based on the Order issued by Texas, the factual basis of which constituted grounds for discipline in New Hampshire.
5. By correspondence received by the department on October 12, 1999, Jain indicated that she would be voluntarily not renewing her license to practice medicine and surgery in the state of Wisconsin.
6. Jain's license to practice medicine and surgery in the state of Wisconsin expires October 31, 1999.
7. The present complaint was served on Jain according to statute.
8. Jain failed to answer the present complaint or appear at the October 22, 1999 hearing of this matter.

CONCLUSIONS OF LAW

1. The Medical Examining Board has jurisdiction in this matter pursuant to s. 448.02(3), Stats.
2. By failing to file an Answer as required by Wis. Admin. Code RL 2.09, and by failing to appear at the hearing, Jain is in default under Wis. Admin. Code RL 2.14, and the Medical Examining Board may make findings and enter an order on the basis of the Complaint and the evidence presented at the hearing.
3. Jain is subject to disciplinary action against her license to practice medicine and surgery in the state of Wisconsin pursuant to s. 448.02(3), Stats., and § Med 10.02(2)(q), Wis. Adm. Code.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the credential of Prem Lata Jain, license number 24182, to practice medicine and surgery in the State of Wisconsin is **INDEFINITELY SUSPENDED, costs to Complainant.**

OPINION

Section RL 2.14 of the Wisconsin Administrative Code provides that a respondent who fails to answer a complaint or fails to appear at a hearing is in default. If found to be in default, the disciplinary authority may make findings

and enter an order on the basis of the complaint and other evidence against the respondent. In this case, Jain did not file an answer to the above-captioned complaint, nor did she appear at the scheduled hearing. As a result, Jain is in default.

It has been requested that the discipline to be imposed be that of revocation. After review of the allegations forming the basis for discipline in Texas, I find that request to be excessive.

In determining the appropriate discipline for Jain, the nature of the charges and the current status of licensure are relevant. All disciplinary determinations are to be guided by the three oft quoted guidelines: (1) to promote the rehabilitation of the licensee; (2) to protect the public; and (3) to deter other licensees from engaging in similar conduct. *State v. Aldrich*, 71 Wis. 2d 206, 209 (1976). Punishment of the licensee is not an appropriate consideration. *State v. McIntyre*. 41 Wis. 2d 481, 485 (1969).

There is nothing in the record to suggest that imposing revocation would have a rehabilitative effect on Jain. Mere punishment alone is not appropriate as a reason for discipline. The foundational charges in Texas against Jain are based upon occurrences dating at least prior to 1993. Based on those very occurrences the Texas State Board of Medical Examiners did no more than limit Jain’s license. It is unknown how old the occurrences complained of in Texas actually are. No evidence is alleged or presented that any citizen of Wisconsin was at any time at risk in their health, safety or welfare.

Given that Jain has no record of previous discipline with the Wisconsin Medical Examining Board, and given that Jain’s license is set to expire October 31, 1999, an indefinite suspension of Jain’s license will hold safe the citizens of Wisconsin’s health, safety and welfare. Jain has expressed an intent not to renew her license, thus requiring renewal at some future time should she so desire. An indefinite suspension will evidence discipline on Jain’s record and serve notice that if and when Jain decides to renew her license, the Wisconsin Medical Examining Board will assess appropriate limits on Jain’s practice. At that time facts related to a change of circumstances may be reviewed to set appropriate conditions on licensure, if any.

Dated at Madison, Wisconsin, this 28th day of October, 1999.

STATE OF WISCONSIN
DEPARTMENT OF REGULATION & LICENSING
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William Anderson Black
Administrative Law Judge